

REMARKS / ARGUMENTS

Introduction

The present Amendment is in response to the Office Action mailed December 4, 2006. By this paper, claims 1, 3-4, and 5 have been amended. Claims 1-7 remain pending.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. The remarks herein or lack of remarks are not to be considered as an admission regarding the Examiner's characterization of the cited art.

Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 1, 2 and 5 under 35 U.S.C. 102(b) as being anticipated by *Kouzu et al* (U.S. Patent No. 6,411,063).

As the Examiner is aware, a "claim is anticipated only if each and every element as set forth in the claim is found . . . in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The following discussion illustrates that *Kouzu* fails to satisfy the requirements of anticipation.

The battery pack apparatus disclosed in the present application can be configured with cases that are separated: a case for the battery pack and a case for the control section. This configuration makes it possible, for example, to prevent hydrogen gas, alkali mist, or the like emitted from the batteries in the battery pack from entering the control section. *See* specification page 8, lines 12-17. Further, risks associated alkali mist entering the control section and with hydrogen gas entering the relay of the control section and coming into contact with sparks are eliminated. *See* specification page 8, lines 18-21.

Claim 1 has been amended to clarify that a first case accommodates the battery pack and that a second case accommodates the control section. Claim 1 further clarifies that the first and second cases are separated from each other.

In contrast, *Kouzu* does not disclose that a first case accommodates the battery pack and that a second case accommodates the control section. Rather, Figure 1 of *Kouzu* discloses a case 4 that accommodates both the battery pack and the ECU 2. Figure 1 of *Kouzu* further illustrates that the ECU 2 and the battery pack 8 are not separated as required by claim 1. More specifically, *Kouzu* teaches a battery source power device 1 that comprises a battery pack 8 and a battery ECU (means for determining battery capacity/means for transmitting battery capacity condition) 2. *See* col. 7, lls. 17-34. The battery pack 8 and the battery ECU are "accommodated in an outer case 4." *See* col. 7, lls. 28-29.

Because the battery pack 8 and the ECU 2 are accommodated in the case 4 and are not separated as required by claim 1, Applicant respectfully submits that *Kouzu* fails to teach or suggest the requirements of claim 1. For at least the same reasons, Applicant respectfully submits that claims 2 and 5 are not taught or suggested by *Kouzu*.

Rejections Under 35 U.S.C. § 103

The Office Action rejected claims 3, 4, 6 and 7 under 35 U.S.C. 103(a) as being unpatentable over *Kouzu*. Because claims 1 and 5 are in condition for allowance as discussed above, claims 3-4 and 6-7 are not taught or suggested by the cited art and the rejection under 35 U.S.C. § 103(a) is moot.

Conclusion

In view of the foregoing, Applicants believe the claims are in allowable form and allowance is respectfully requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 5th day of March, 2007.

Respectfully submitted,

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